

Internal Revenue Service, Treasury

§ 301.6688-1

not due to reasonable cause and either—

(1) Such person has theretofore (at any time) been liable for tax under any section of such chapter (other than section 4940 or 4948(a)), or

(2) Such act or failure to act is both willful and flagrant,

then such person shall be liable for a penalty equal to the amount of such tax.

(b) *Showing of reasonable cause.* The penalty imposed by section 6684 shall not apply to any person with respect to a violation of any section of chapter 42 if it is established to the satisfaction of the district director or director of the internal revenue service center that such violation was due to reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration by such person that it is made under the penalties of perjury, setting forth all the facts alleged as reasonable cause.

(c) *Willful and flagrant.* For purposes of this section, the term “willful and flagrant” has the same meaning as such term possesses in section 507(a)(2)(A) and the regulations thereunder.

(d) *Effective date.* This section shall take effect on January 1, 1970.

[T.D. 7127, 36 FR 11504, June 15, 1971]

§ 301.6685-1 Assessable penalties with respect to private foundations' failure to comply with section 6104(d).

(a) *In general.* In addition to the penalty imposed by section 7207, relating to fraudulent returns, statements, or other documents, any person (as defined in paragraph (b) of this section) who is required to comply with the requirements of section 6104(d), relating to public inspection of private foundations' annual returns, and who fails so to comply, if such failure is willful, shall pay a penalty of \$1,000 with respect to each such return with respect to which there is a failure so to comply.

(b) *Person.* For purposes of this section, the term “person” means any officer, director, trustee, employee, member, or other individual whose duty it is to perform the act in respect of which the failure occurs.

(c) *Effective date.* This section shall take effect on January 1, 1970.

(d) *Cross reference.* For the amount imposed for failure to comply with section 6104(d), see paragraph (c) of § 301.6652-2.

[T.D. 7127, 36 FR 11505, June 15, 1971, as amended by T.D. 8026, 50 FR 20758, May 20, 1985]

§ 301.6686-1 Failure of DISC to file returns.

(a) *In general.* In addition to the penalty imposed by section 7203 (relating to willful failure to file a return, supply information, or pay tax) any person who is required to supply information or to file a return under section 6011(c) (relating to records and returns of DISC's) and who fails to supply such information of file such return at the time prescribed in sections 6072(b) and 1.6072-2(e) shall pay a penalty of \$100 for each failure to supply information (provided that the total amount imposed on the delinquent person for all such failures during a calendar year shall not exceed \$25,000) and a penalty of \$1,000 with respect to each failure to file a return, unless it is shown that such failure is due to a reasonable cause.

(b) *Showing of reasonable cause.* The penalty imposed by section 6686 shall not apply to any person with respect to a failure to supply information, or to file a return, under section 6011(c) if it is established to the satisfaction of the district director or director of the Internal Revenue Service Center that such failure was due to reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, which contains a declaration by such person that the statement is made under the penalties of perjury, and sets forth all the facts alleged as reasonable cause.

[T.D. 7533, 43 FR 6604, Feb. 15, 1978]

§ 301.6688-1 Assessable penalties with respect to information required to be furnished with respect to possessions.

(a) *In general.* Each individual described in section 7654(a) who is subject to an information reporting requirement promulgated under the authority of section 937(c) or 7654 and who fails to

fully satisfy such requirement within the time prescribed for reporting such information must, in addition to any criminal penalty provided by law, pay a penalty of \$1000 for each such failure. Information reporting requirements promulgated under the authority of sections 937(c) and 7654(e) include the requirement for an individual to file Form 8898, "Statement for Individuals who Begin or End Bona Fide Residence in a U.S. Possession," under §1.937-1(h) of this chapter, to report that he or she became or ceased to be a bona fide resident of a possession.

(b) *Manner of payment.* The penalty set forth in paragraph (a) of this section must be paid in the same manner as tax upon the issuance of a notice and demand for the penalty.

(c) *Reasonable cause.*—(1) The penalty set forth in paragraph (a) of this section will not apply if it is established to the satisfaction of the *Commissioner* that the failure to file the information return or furnish the information within the prescribed time was due to reasonable cause and not to willful neglect. An individual who wishes to avoid the penalty must make an affirmative showing of all facts alleged as a reasonable cause for failure to file the information return on time, or furnish the information on time, in the form of a written statement containing a declaration that it is made under penalties of perjury. This statement must be filed with Internal Revenue Service Center where Form 8898 must be filed. In determining whether there was reasonable cause for failure to furnish the required information, account will be taken of the fact that the individual was unable to furnish the required information in spite of the exercise of ordinary business care and prudence in his effort to furnish the information. An individual will be considered to have exercised ordinary business care and prudence in his effort to furnish the required information if he made reasonable efforts to furnish the information but was unable to do so because of a lack of sufficient facts on which to make a proper determination.

(d) *Effective/applicability date.* This section applies to taxable years ending after April 9, 2008.

[T.D. 9391, 73 FR 19376, Apr. 9, 2008; 73 FR 27728, May 14, 2008]

§ 301.6689-1T Failure to file notice of redetermination of foreign tax (temporary).

(a) *Application of civil penalty.* If a foreign tax redetermination was made with respect to taxes for which the taxpayer previously claimed the foreign tax credit, and the taxpayer failed to notify the Service on or before the date prescribed in regulations under section 905(c) or in regulations under section 404A(g)(2) for giving notice of a foreign tax redetermination, then, unless paragraph (d) of this section applies, there shall be added to the deficiency attributable to such redetermination an amount determined under paragraph (b) of this section. Subchapter B of chapter 63 of the Internal Revenue Code (relating to deficiency proceedings) shall not apply with respect to the assessment of the amount of the penalty.

(b) *Amount of penalty.* The amount of the penalty shall be equal to—

(1) Five percent of the deficiency if the failure is for not more than one month, plus

(2) An additional five percent of the deficiency for each month (or fraction thereof) during which the failure continues, but not to exceed in the aggregate twenty-five percent of the deficiency. If the penalty imposed under paragraph (a) of this section applies, then the penalty imposed under section 6653(a), relating to failure to pay by reason of negligent or intentional disregard of rules and regulations, shall not apply.

(c) *Foreign tax redetermination defined.* For purposes of this section, a foreign tax redetermination is any redetermination for which a notice is required under section 905(c) and the regulations thereunder, or section 404A(g)(2) and the regulations thereunder.

(d) *Reasonable cause.* The penalty set forth in this section shall not apply if it is established to the satisfaction of the Service that the failure to file the notification within the prescribed time was due to reasonable cause and not